

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 DONALD PAPAY :
 Plaintiff, : **NOTICE OF MOTION TO
DISMISS THE AMENDED
COMPLAINT**
 :
 -against- : 07 Civ. 3858 (SCR)
 :
 VIRGINIA HASSELHUHN, as ASSISTANT :
 EXECUTIVE DIRECTOR, AMERICAN REGISTRY :
 OF RADIOLOGIC TECHNOLOGISTS, RICHARD F. :
 DAINES as COMMISSIONER, STATE OF NEW YORK :
 DEPARTMENT OF HEALTH, ADELA SALAME-ALFIE :
 as DIRECTOR, STATE OF NEW YORK DEPARTMENT :
 OF HEALTH - - BUREAU OF ENVIRONMENTAL :
 RADIATION PROTECTIONS (in his official capacity); :
 Defendants. :
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PLEASE TAKE NOTICE that upon the Amended Complaint dated July 17, 2007, and the accompanying Memorandum of Law to Dismiss the Complaint, and all prior pleadings and proceedings herein, Defendants Richard F. Daines as Commissioner, State of New York Department of Health and Adela Salame-Alfie as Director, State of New York Department of Health, Bureau of Environmental Radiation Protections[sic], will move this Court at a time and day designated by the Court, at the United States Courthouse, Room 621, 300 Quarropas Street, White Plains, New York, 10601, before the Honorable Stephen C. Robinson, United States District Judge, for an Order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Amended Complaint in its entirety on the grounds that the Amended Complaint fails to state any claim upon which relief can be granted.

Dated: New York, New York
October 31, 2007

ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendants
By:

/ / Ellen J. Fried
Ellen J. Fried
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Attorney for Defendants
Haselhuhn and American Registry
of Radiologic Technologists

CERTIFICATE OF SERVICE

ELLEN J. FRIED hereby certifies:

I am an Assistant Attorney General in the office of Andrew M. Cuomo, Attorney General of the State of New York, attorney for Defendants Richard F. Daines as Commissioner, State of New York Department of Health, Adela Salame-Alfie as Director, State of New York Department of Health, Bureau of Environmental Radiation Protection.

On October 31, 2007, true and correct copies of the Notice of Motion to Dismiss the Amended Complaint , dated October 31, 2007, and the accompanying Memorandum of Law were filed electronically with the Clerk of the Court. Copies of same were also served upon the following counsel:

Law Office of Shmuel Klein, PC
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Attorney for Plaintiff

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Haselhuhn and American Registry
of Radiologic Technologists

by depositing a copy of said documents, properly enclosed in a postage pre-paid Federal Express mail wrapper, within the custody of Federal Express at 120 Broadway, New York, New York 10271, directed to said attorneys at the addresses they designated for service of papers.

Dated: New York, New York
October 31, 2007

ANDREW M. CUOMO
Attorney General of the
State of New York
Attorney for Defendants
By:

/ / Ellen J. Fried
Ellen J. Fried
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